

REMARKS

The Applicant respectfully submits the above amendments and the following remarks and requests further examination of this application.

Claim 32 was rejected as unpatentable over U.S. Patent No. 4,968,296 to Ritch (“Ritch”). In addition to the distinctions of the Ritch reference previously stated, claim 32 has been amended to recite the steps of: “(d) cutting a slit in a first portion of the conjunctiva of the eyeball which normally lies at a distance away from a second portion of the conjunctiva which normally covers an implantation site; (e) placing the implant by the delivery device through an opening formed by the slit in the conjunctiva and directing the implant by the delivery device to the implantation site;” and “(g) having the second portion of the conjunctiva cover the implantation site after implantation of the implant.” These steps, in combination with the other claimed features, is not disclosed or rendered obvious by Ritch, either alone or any combination with any of the other references.

Claims 34-36 and 44 were rejected as unpatentable over U.S. Patent No. 3,788,327 to Donowitz (“Donowitz”), U.S. Patent No. 5,433,701 to Rubinstein (“Rubinstein”) and U.S. Patent No. 5,053,040 to Goldsmith (“Goldsmith”). Claims 37-43 and 45 were rejected as unpatentable over Donowitz, Rubinstein, Goldsmith and U.S. Patent No. 5,000,731 to Wong (“Wong”). In addition to the distinctions of these reference previously stated, the Applicant has amended claims 34 and 39 to recite the steps of: “(d) cutting a slit in a first portion of the conjunctiva of the eyeball which normally lies at a distance away from a second portion of the conjunctiva which normally covers an implantation site; (e) placing the implant by the delivery device through an opening formed by the slit in the conjunctiva and directing the implant by the delivery device to the implantation site;” and “(g) having the second portion of the conjunctiva

cover the implantation site after implantation of the implant.” These steps, in combination with the other claimed features, is not disclosed or rendered obvious by Donowitz, Rubinstein, Goldsmith and/or Wong, either alone or any combination with any of the other references. In addition, while these steps alone are believed sufficient to distinguish the references, the Applicant respectfully submits the claims are otherwise patentable over the proposed combination because there is no reason that a person of ordinary skill in the art would look to the non-analogous Goldsmith myringotomy device and method for modification of Donowitz and/or Rubinstein.

The amendments submitted herein are without prejudice to Applicant’s right to continue to pursue claims of the scope presented prior to this amendment in one or more continuation applicants. Moreover, the amendments submitted herein in no way constitute an admission that the claims of the scope presented prior to this amendment are not patentable over the prior art. To the contrary, the Applicant maintains that the claims of the scope presented prior to this amendment are patentable over the references, at least for the reasons of record. Nevertheless, the above amendments are being submitted to advance prosecution and to obtain prompt allowance of the claims.

Thus, for the foregoing reasons, the Applicant respectfully requests reconsideration of the rejections of the pending claims. Should any questions arise concerning this application, the Examiner is invited to contact the undersigned at (202) 220-4200. The Commissioner is

authorized to charge any necessary fees or credit any overpayments under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account No. 11-0600.

Respectfully submitted,

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